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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MGE - 174609

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on May 24, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on September 7, 2016, by telephone from Madison, Wisconsin.

The issue for determination is whether the respondent correctly denied petitioner's request for Medical Assistance.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner's Representative:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Respondent:**

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED]. [REDACTED] Petitioner's husband was her Guardian of the Person and Estate. Mr. [REDACTED] passed away on March 16, 2016.
2. Prior to Mr. [REDACTED]'s death, [REDACTED] filed a request for Medicaid benefits on petitioner's behalf on February 26, 2016.
3. A Notice of Action and Proof Needed was sent to [REDACTED] on March 7, 2016.
4. On March 23, 2016, [REDACTED] wrote to the respondent indicating that petitioner's guardian had passed away, and petitioner was without a guardian or other representative to assist with her application or access her resources.
5. The respondent granted an extension of thirty days for petitioner to provide the required verifications.
6. On April 11, 2016, the respondent denied petitioner's application for failure to provide a valid signature<sup>1</sup>, failure to provide verification, and assets exceeding program limits.
7. Petitioner submitted a Request for Hearing on May 27, 2016.
8. A Successor Guardian of the Person and Estate was appointed for petitioner on July 25, 2016.

### DISCUSSION

To qualify for MA, a person must meet both non-financial and financial requirements. Wis. Stat. §49.47(4). At application, the agency must request income and asset verification. *Medicaid Eligibility Handbook*, (MEH), §20.3.1 – 20.3.8, available at <http://www.emhandbooks.wisconsin.gov/meh-cbd/meh.htm>. The agency must always give the client at least 10 days to supply requested verification. In the case of an application, the application should not be denied for lack of verification until 30 days has passed from the filing date. *Id.*, §20.7.1.1. The responsibility for supplying verification then rests on the recipient. However, if the applicant promptly advises the agency that she cannot obtain the verification, the responsibility for obtaining verification shifts to the agency.

The agency erred in denying the February 26, 2016, application for verification failure and assets exceeding program limits. The respondent was plainly made aware of the situation facing petitioner, i.e., the death of her husband, her appointed Guardian. As such, the respondent was aware that the petitioner did not have the power to produce verification. The Medicaid Eligibility Handbook (MEH) states:

The IM worker has a responsibility to use all available data exchanges to verify information, but the member has primary responsibility for providing verification. The member must likewise resolve questionable information. Do not deny eligibility when the member does not have the ability to produce verification.

Assist the member in obtaining verification if he or she has difficulty in obtaining it.

Use the best information available to process the application or change within the time limit and issue benefits when the following two conditions exist:

1. The member does not have the power to produce verification, **and**

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<sup>1</sup> At hearing the respondent testified that this reason for denial was rescinded, as the signature it had received was sufficient.

2. Information is not obtainable timely even with your assistance.

In this situation, seek verification later. When you have received the verification, you may need to adjust or recoup benefits based on the new information. Explain this to the member when requesting verification.

MEH §20.5.

Testimony at hearing demonstrated that the respondent made no attempts to assist petitioner in obtaining the required verifications, and that the respondent was timely made aware of petitioner's inability to produce the verifications herself.

This matter will be remanded to the agency for corrective action to approve the application as submitted and to backdate petitioner's eligibility as requested. The respondent remains entitled to seek verifications now that a Successor Guardian has been appointed.

### **CONCLUSIONS OF LAW**

The agency incorrectly denied the petitioner's February 26, 2016, MA application because petitioner was unable to produce the requested verification, and the information would not have been timely obtainable even with the respondent's assistance.

**THEREFORE, it is**

### **ORDERED**

That the petition is *remanded* to the agency with instructions to approve the petitioner's February 26, 2016, MA application, and to backdate that application as requested. The agency may request post-approval verification and thereafter adjust or recoup benefits based on the new information. All actions required by this Order shall be completed within 10 days following issuance of this Order.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES

IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 24th day of October, 2016

\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 24, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability  
[REDACTED]